

MINUTES
BOARD OF APPEALS
VILLAGE OF SEA CLIFF
VILLAGE HALL
300 SEA CLIFF AVENUE
SEA CLIFF, NEW YORK 11579

December 18, 2012

Present:	Chair	Kevin McGilloway
	Members	Dina Epstein
		Jamie Weil
	Village Attorney	Brian Stolar

The meeting was called to order at 8:05 pm.

The Chair announced that the applications of Paul Chartier, as contract vendee, and Cory Hattem, as owner, 190 Littleworth Lane, Sea Cliff, New York for variances to construct additions to a single family dwelling and Wayne McCann, 219 Glen Cove Avenue, Sea Cliff, New York for variances and a special permit to renovate an existing building for use as an office and one dwelling unit are adjourned to January 15, 2013 at 8:00pm.

The Board discussed the application of George Schidlovsky, 242 Sea Cliff Avenue, Sea Cliff to renew a special use permit for a restaurant known as the Oak Room. The Board noted that it had received a letter of local determination from the Nassau County Planning Commission. After such discussion, on motion duly made by Mr. Weil, seconded by Ms. Epstein, and adopted unanimously, the Board granted the application in accordance with the decision annexed hereto.

There being no further business, the meeting was adjourned at 8:15 pm.

**SCHIDLOVSKY
DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on December 18, 2012, on motion of Mr. Weil, seconded by Ms. Epstein, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing, and other matters properly within the consideration of this Board and having discussed the subject application, rendered the following determination:

1. The applicant, George Schidlovsky, 242 Sea Cliff Avenue, Sea Cliff applied for a special permit to continue to operate a restaurant. Premises are designated as Section 21, Block 131, Lot 6 on the Nassau County Land and Tax Map (the "Subject Premises").
2. The Subject Premises are located in a Business A Zoning District, and are improved presently with a first floor unit that has been occupied by the applicant pursuant to a special permit and variances granted by the Board on December 19, 2011. Prior to such approval, the Subject Premises was occupied by a restaurant called Roots. The applicant does not propose any changes to the restaurant. The previously issued special permit is valid for a one year period, and the applicant seeks a three year special permit.
3. The Board held a public hearing on this application, made a determination of no environmental significance, and timely referred the application to the Nassau County Planning Commission. The Planning Commission recommended local determination of the application.
4. At the hearings, the applicant testified that the proposed use will be identical to the use and operation as indicated during the 2011 special permit hearings.
5. As a matter of law, special permits allow specific uses in a given zoning district, provided that the applicant can demonstrate that it meets or complies with certain standards set forth in the zoning regulations related to such use and that the proposed use will not be a detriment to the neighborhood. As set forth below, the Board grants the special permit subject to certain conditions.

6. In connection with the granting of a special permit, the Board has the power to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property and which are not inconsistent with the provisions of the zoning regulations.
7. The applicant's request for a special permit to continue to operate a restaurant at premises where a restaurant has been in operation for many years is also granted on the conditions set forth below. To balance the potential adverse impacts the proposed use may have on nearby properties and traffic in the area with the obligation of this Board to issue a special permit where adequate, reasonable, and appropriate conditions and restrictions can be imposed to minimize the adverse effects, the special permit is granted to operate the portion of the Subject Premises depicted in the plans submitted with the application as a restaurant subject to the following conditions:
 - a. The special permit is granted to the applicant only or to any business or entity in which the applicant has a controlling interest;
 - b. The parking of vehicles by patrons of the premises, employees, or suppliers, and the loading or unloading of equipment and supplies, shall not interfere with the normal flow of traffic on the adjoining streets;
 - c. There shall be no outside storage of supplies, equipment, materials or any other items used in connection with the restaurant, except in the walk-in refrigerator;
 - d. Exterior lighting of the premises shall be designed so as to minimize any impact on the adjoining properties through shielding, directional lighting and reduction of glare and reflection. Any new exterior lighting or building lighting shall be mounted at a height and in a location such that no light spillage of 0.1 foot-candle or higher shall extend beyond the property lines. There shall be no additional lighting for outdoor usage, except for table candlelight;
 - e. Seating shall be limited to the proposed seating, including 30 seats at inside tables, 7 seats at the bar, with no more than 4 outdoor seats to be used for seasonal dining. If additional seating is necessary, applicant must reapply to the Board for appropriate relief as then identified by the Superintendent of Buildings;
 - f. The cooking equipment shall be limited to the equipment proposed by the applicant in the 2011 application;
 - g. No deliveries shall be made by tractor trailer sized vehicles. No trucks in excess of 24 feet in length shall make any deliveries to or pick-ups from, the property. No deliveries or shipments shall be made to or from the property before 7:00 am or after 6:00

pm on any day;

h. Throughout the term of the special permit granted herein, the applicant shall obtain and maintain full approval, if necessary, from the Nassau County Department of Health and all other agencies for the cooking of food, the use of the cooking and cleaning equipment proposed to be used on-site and any required modifications to the septic or water systems, and shall comply with all conditions of any such approval;

i. Any fire sprinkler system and use of the premises for cooking purposes shall conform to applicable NFPA requirements, as determined by the Superintendent of Buildings or any municipal agency with jurisdiction;

j. Cooking equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, parking area, alleys, sidewalks, neighboring properties or storm sewers;

k. No noise, fumes, or similar sources of nuisance are to emanate in a manner as to be unreasonably annoying to surrounding property owners;

l. Except as authorized in the 2011 determination, there shall not be any outside seating on the Subject Premises without additional application to this Board;

m. The hours of operation for the kitchen and restaurant service shall be Wednesdays, Thursdays, Fridays, Saturdays and Mondays from 4pm to 12am and Sundays from 12pm to 12am. The restaurant shall be closed on Tuesdays. The bar may remain open until 2am on the days that the restaurant is open, but the doors shall remain closed during such operation except for ingress and egress purposes or emergency purposes;

n. Except as otherwise approved as part of a cabaret license, interior music shall be limited to prerecorded background type music and shall not include any live music. No music shall be permitted outside, and the doors and/or windows shall not be left open in a manner that would circumvent this restriction;

o. Outdoor seating and use of the outside area shall be limited to no later than 10:00 pm. All tables and chairs used for outside service shall be stored in the outside area in a manner that prevents their use after 10:15pm;

p. No heating or cooking apparatus related to food preparation and no bar shall be located outside, including any bar for the service or storage of alcoholic or non-alcoholic beverages;

q. All plantings and planted areas shall be maintained in good and neat condition to accomplish the purposes intended, and shall be replaced as necessary to maintain the screening and planted areas in a manner that serves as a buffer area for the adjoining residential properties;

r. The Subject Premises shall not be used for any use that intensifies or increases the usage or the parking requirements or the potential impacts of the premises

without further application to the Board;

s. Loitering outside of the restaurant is prohibited;

t. No mechanical means of ventilation, heating or cooling shall be utilized for the outdoor seating area;

u. No trash or debris from the restaurant shall be stored outside unless placed in fully enclosed and sealed garbage disposal receptacles. Such receptacles shall be sanitized in a manner so as not to permit odors to emanate outside such receptacles. No such receptacles shall be visible from any public way;

v. No employees or customers shall be permitted to smoke in the outside seating area of the premises, and as otherwise permitted under any applicable law related to smoking;

w. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all special use permit conditions and requirements contained herein; and

x. Because of the potential of abuse which the proposed special permit use presents if not supervised correctly and the resultant adverse impacts on the surrounding property owners and the Village and its residents that could result this Board, mindful of its responsibilities to protect nearby residents from over commercialization of the area and other potential adverse impacts and the limited ability of the applicant and/or operator to completely control the adverse impacts that the business may generate, will grant the special permit renewal to operate as proposed for a period of two (2) years commencing on the date that this decision is filed with the Village Clerk. The special permit shall be limited to the operation of a restaurant by the applicant, and any change in ownership shall require a new application to this Board for a special permit. To extend the special permit, prior to the expiration of the two (2) year period, but in no event sooner than four months prior to said date, the applicant, if it desires to continue the use of the premises in the manner proposed by the application, shall reapply to the Board having jurisdiction for a renewal of the special permit. The application shall be made in a timely manner so as to permit this Board to render its decision prior to the expiration of the aforesaid two (2) year time period. The provisions of this paragraph shall constitute a condition of this decision.

8. If one or more of the aforesaid conditions of this decision are violated, the Village shall have the right to suspend or revoke the special permit in accordance with the procedures set forth in the Village Code.

9. Except as provided otherwise herein, the provisions of Village Code §§138-1304 and 1403 apply.